

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

ROBERT FRERCK,

Plaintiff,

v.

JOHN WILEY & SONS, INC.,

Defendant.

CASE NO. 11-cv-02727

Hon. Robert M. Dow Jr.

Magistrate Judge Geraldine Soat Brown

**DECLARATION OF CHRISTOPHER P. BEALL
IN SUPPORT OF DEFENDANT'S CROSS
MOTION FOR PARTIAL SUMMARY JUDGMENT**

I, **Christopher P. Beall**, pursuant to 28 U.S.C. § 1746, state as follows:

1. I am an attorney admitted to the practice of law before this Court, and I have entered my appearance on behalf of the defendant in this action John Wiley & Sons, Inc. ("Wiley"). I am a partner of the firm Levine Sullivan Koch & Schulz, LLP. I submit this declaration in support of Wiley's motion for partial summary judgment.

2. Throughout the course of this litigation, plaintiff Robert Frerck has not served any discovery requests upon third parties to my knowledge, including any third party publishers of any translations or adaptations of Wiley's textbooks, nor has Frerck disclosed any discovery that he received from third parties.

3. Attached hereto as **Exhibit 1** is a true and correct copy of a selected excerpt from the Deposition of Robert Frerck, which was held on Oct. 9, 2012 and continued on May 6, 2013 in this litigation.

4. Attached hereto as **Exhibit 2** are true and correct copies of Invoice No. 155803, dated December 6, 1995, issued by Odyssey Productions, Inc., to John Wiley & Sons Ltd, bearing the

Bates number WFRERCK 0004439, and Invoice No. 155804, dated December 6, 1995, issued by The Stock Market to John Wiley & Sons, bearing the Bates range WFRERCK 0004442 through 0004443.

5. Attached hereto as **Exhibit 3** is a true and correct copy of a selected excerpt from the Deposition of Hilary Newman, which was held on September 27, 2012, in this litigation.

6. Attached hereto as **Exhibit 4** is a true and correct copy of a selected excerpt from the Deposition of Ann Berlin, which was held on September 25, 2012, in this litigation.

7. Attached hereto as **Exhibit 5** is a true and correct copy of selected excerpts from the Deposition of Mary Ann Price, which was held on November 20, 2013 in the litigation captioned *Degginger v. John Wiley & Sons, Inc.*, 2:11-cv-6600 (CDJ) (E.D. Pa.).

8. Attached hereto as **Exhibit 6** is a true and correct copy of Invoice No. 5007, dated February 1, 1999, issued to Wiley-John & Sons, Inc. [sic] bearing the Bates range Frerck v. Wiley 000018 through 000019.

9. Attached hereto as **Exhibit 7** is a true and correct copy of Invoice No. 5210, dated November 3, 1999, issued to IDG Books bearing the Bates range Frerck v. Wiley 000619 through 000621.

10. Attached hereto as **Exhibit 8** is a true and correct copy of Invoice No. 6121989, dated April 21, 2008, issued by Getty Images to John Wiley & Sons, bearing the Bates range WFRERCK 004469 through 004473.

11. Attached here to as **Exhibit 9** is a copy of a rate card agreement between Wiley and Getty Images, effective May 1, 2006 through April 30, 2009, bearing the Bates range WFRERCK 0004597 through 0004598. The specific pricing amounts have been redacted from this copy of the rate card because they are not germane to the issues for this motion. In all other

respects, the copy of the rate card is a true and correct copy of what Wiley produced in discovery in this case.

12. Attached hereto as **Exhibit 10** are true and correct copies of Invoice No. 6148, dated September 26, 2001, indicating that it was issued to the author's employer, listed as "University at Albany," and related correspondence between the author, Frerck and Odyssey Production, Inc., bearing the Bates range Frerck v. Wiley 000647 through 000651, and Invoice No. 766544, dated May 16, 2011, issued by Odyssey Production, Inc., to the independent corporate entity John Wiley & Sons Ltd, again at the author's request, in connection with the imprint Blackwell Publishers, and related correspondence between the author, Frerck and Odyssey Production, Inc., bearing the Bates range Frerck v. Wiley 000656 through 000660.

13. There is no evidence that has been produced in this case indicating that the defendant John Wiley & Sons, Inc., a U.S. company, has ever published or distributed any edition of *The Aztecs: People of America*. No evidence has been produced in this case indicating that the defendant John Wiley & Sons, Inc., a U.S. company, ever paid any invoice issued by Odyssey in connection with Frerck's photos in *The Aztecs: People of America*.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 23, 2013
New York, New York

By: /s/ Christopher P. Beall
Christopher P. Beall